REMARKS

Claims 1-13 and 16-29 remain pending in the application, wherein claims 1, 2, 7, 10, 11, 20 and 27-29 have been amended. No claims were added or cancelled by this amendment.

The present application discloses child restraint devices and methods for their use that include a handle that is easily gripped by a user in order to hold or restrain a child in a desired position. *See* Figures 3, 4, 18A and 18B. An important feature of the "handle" that forms part of the child restraint device is that it can be easily gripped by a person's hand in a manner so that at least a portion of the hand lies between at least a portion of the handle (*e.g.*, loop) and the child's body during use (*e.g.*, Figures 3, 4, 18A and 18B).

The Office Action rejects claims 1-8, 10-13, 16, 18, 20-26, and 29 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,122,778 to Cohen. The Office Action alleges that element numbers 70, 86, and 84 comprise "handles". Office Action, p. 2. As discussed in the previous amendment, the structures corresponding to elements 70, 84 and 86 neither appear to be handles in the drawings nor are they ever described in Cohen as providing the function of handles. Instead, they are merely supporting structures intended to hold the lift vest of Cohen together. Col. 5, ll. 32-48. Nevertheless, in order to further distinguish over Cohen, claim 1 was amended to specify that "the handles extend[] laterally away from a surface of the attachment means so as to provide an opening into which a person can readily insert fingers without spreading the handles apart from the attachment means". Support for this amendment is shown in Figures 3-18 of the present application. That feature provides added safety in the event a child were falling and the person in charge of protecting the child needed to quickly grab one or both handles. If the handles were disposed flat against the connecting means, it would be more difficult to quickly grab the handles in case of emergency.

As is shown in Figures 3-5 of Cohen, connecting elements 70, 84, and 86 are tightly disposed against the side of the lift vest garment 18 such that they neither "extend[] laterally away from a surface of the attachment means" nor do they "provide an opening into which a person can readily insert fingers without spreading the handles apart from the attachment means". Instead of extending laterally away from a surface of the attachment means, connecting elements 70, disposed on either side of lift vest garment 18, actually curve inwardly toward rather than "away" from lift vest garment 18. Connecting elements 70 are shown closely pegged

against the garment 18 in Figures 3-5. Hence, connecting elements 70 lack the structural and functional features of the "handle" defined in claim 1 as now amended. A person could not "readily insert fingers" between connecting elements 70 and lift vest garment 18 "without spreading the [connecting element 70] apart from the [lift vest garment 18]" since connecting elements 70 lie flush against lift vest garment 18.

Connecting elements 84 and 86 are also not intended to be used as handles and are not designed to function as handles. As shown in Figures 3-5, they do not "extend[] laterally away from a surface of the attachment means so as to provide an opening into which a person can readily insert fingers without spreading the handles apart from the attachment means". Instead, connecting elements 84 and 86, like connecting element 70, lie flush against the lift vest garment 18. In view of the foregoing, Cohen neither teaches nor suggests the restraint device of claim 1.

Claim 10 was amended to recite a handle "extending laterally away from the flexible corset" and that is "positioned . . . adjacent to the spine, sternum, stomach or chest of the child's body" during use. As discussed above, connecting element 70 curves inwardly toward rather than "away" from lift vest garment 18. On the other hand, connecting elements 84 and 86 are located above the wearer's shoulders, and connecting element 70 next to the wearer's sides, not "adjacent to the spine, sternum, stomach or chest". Accordingly, claim 10 as amended is believed to be patentable over Cohen.

Claim 20 was amended to recite the act of "releasably attaching a restraint device to a torso of the child in order for at least one strap of the device to be circumferentially wrapped around the torso and so that a handle attached to the at least one strap extends laterally away from the strap so as to provide an opening into which fingers can be inserted". This is shown in Figures 3 and 4 of the present application. In contrast, the device of Cohen does include (i) at least one strap that is circumferentially wrapped around the torso of a child and (ii) a handle attached to the at least one strap that extends laterally away from the strap so as to provide an opening into which fingers can be inserted. As shown in Figures 3-5, connecting element 70 is curved toward, not away, from straps 36 and 32 to which it is attached. Moreover, there is no "opening into which fingers can be inserted" between connecting element 70 and the garment 18, as clearly shown in Figures 3-5. Claim 20 is therefore patentable over Cohen.

With regarding to claim 27, the connecting element 70 of Cohen is not "releasable" as alleged in the Office Action but "doubled and stitched on both ends". Col. 5, ll. 33-36.

Moreover, the Office Action misunderstands Cohen because it alleges that the two connecting elements 70 on either side of the Cohen device "may be selectively connected and unconnected that form a loop when selectively attached". In response, Applicant submits that connecting elements 70 do not in any way cooperate to form a loop of a "releasable handle" because they are permanently "doubled and stitched on both ends". As discussed in the previous amendment, to release either of elements 70 would require ripping out and reconnecting the stitching each time connecting elements 70 are "selectively connected and unconnected". That is not the essence of "releasable" as defined in claim 27. Nor do elements 70 cooperate to form a "loop" as that term is defined in claim 27 and depicted in Figures 7B, 15A-16B of the present application. They are actually located on opposite sides of the Cohen device such that they cannot even touch.

Notwithstanding the foregoing differences, claim 27 was amended to further specify that the releasable handle is configured to be "positioned next to the child's body or clothing adjacent to the child's spine, sternum, stomach or chest". Connecting elements 70 are located next to a person's sides during use, not adjacent to a "child's spine, sternum, stomach or chest". Thus, claim 27 distinguishes over Cohen for this additional reason.

Claim 28 was amended to claim "a head restraint device configured to attach to a child's head and restrain the child's head in a desired position relative to the child's body when the restraint device is in use". Support for this amendment is shown in Figures 12 and 13. The Office Action admits that "Cohen is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when a restraint device is in use". Moreover, Lindy neither teaches nor suggests a "head restraining system" that is "configured to attach to a child's head and restrain the child's head in a desired position relative to the child's body". Instead, Lindy simply discloses a cushion that can be strapped onto a child's body so that "if the baby slips, its head, as well as its neck and shoulders, will fall against cushion (10)". Abstract (emphasis added). As clearly shown in Figure 5 of Lindy, no part of the device is attached to the baby's head. In fact, the cushion 10 shown in Figure 5 of Lindy does not even touch the baby's head when the baby is sitting up, thus providing no support whatsoever. Accordingly, claim 28 as amended is patentable over the combination of Cohen and Lindy.

Claim 29 was amended to claim a device that includes at least one of:

one or more strips of a cushioning material ~~, separate from the corset or harness,~~ disposed on at least a portion of an inner surface of the ~~corset or harness~~ one or more straps so as to shield and protect soft, sensitive skin of a baby or young child from the ~~corset or harness~~ one or more straps when in use, the cushioning material comprising at least one member selected from the group comprising fleece, felt, other soft and flexible fabrics, silicone, other polymeric gel materials, polyurethane foam, and other soft and flexible foam materials, or

a friction enhancing material ~~, separate from the corset or harness,~~ disposed on at least a portion of an inner surface of the ~~corset or harness~~ one or more straps so as to decrease the tendency of the restraint device to move in an unwanted fashion relative to the child's body when in use.

The Office Action does not even allege that Cohen discloses a "friction enhancing material". Instead, it alleges that the "garment 18" is inherently a cushioning material. The Office Action, however, fails to provide any evidence that the "fabric" or "textile" of Cohen are inherently cushioning (*i.e.*, necessarily cushioning, not merely possibly or probably cushioning). MPEP § 2112. Many fabrics can be quite rough or rigid (*e.g.*, denim) such that not all fabrics are inherently "cushioning". The fact that some fabrics are rough to the skin is precisely why claim 29 contemplates positioning an additional cushioning layer between the straps and the child's skin. Thus, the teachings of the present application are evidence that some fabrics are not inherently cushioning but can irritate a child's skin. This evidence rebuts the assertion of inherency in the Office Action. Absent contrary evidence, the evidence provided in the present application is conclusive that not all fabrics are inherently cushioning. *See*, MPEP § 2112. For this reason alone, Applicant submits that claim 29 is patentable over Cohen.

Nevertheless, claim 29 was further amended to recite "one or more straps" and "one or more strips of a cushioning material disposed on at least a portion of an inner surface of the one or more straps so as to shield and protect soft, sensitive skin of a baby or young child from the one or more straps when in use". Support for this amendment is shown in Figure 14B. The garment 18 of Cohen is clearly not "one or more strips" attached to "one or more straps" but is described as "similar in all respects to a sleeveless open front shirt or vest". Col. 4, ll. 13-15. Claim 29 is therefore further patentable over Cohen for this additional reason.

The Office Action rejects claims 1-8 and 27 as being anticipated by U.S. Patent No. 2,661,888 to Sidlinger. Sidlinger discloses a safety belt "particularly adapted for use in acrobatics and the like". Col. 1, ll. 3-5. Protecting a child from harm is a far cry from

"acrobatics" though some parents might feel it to be similar in many respects. The alleged "handles" 20 of Sidlinger, however, are not designed to be gripped by a person's hand but are D-rings constructed and designed "for attachment to a safety rope or other conventional safety device, such as a safety rig". Col. 3, ll. 38-41.

To further distinguish over Sidlinger, claim 1 was amended to recite that the handles are "sized so as to allow insertion therein of at least three fingers of a person using the device to hold or restrain a child". Support for this limitation is shown in Figures 3 and 4 of the present application. The D-rings 20 of Sidlinger do not appear to accommodate "at least three fingers of a person", let alone four as recited in claim 2. Thus, claims 1 and 2 are believed to be patentable over Sidlinger for at least this reason.

Claim 7 was amended to recite that the attachment means are "configured so as to position one of the handles at or near a child's spine and the other of the handles at or near the child's sternum". In sharp contrast, Sidlinger teaches that "the retaining loops 20 can always be positioned at the center of the sides of the wearer". Col. 3, ll. 46-48 (emphasis added). Claim 8 also distinguishes over Sidlinger for this same reason (*i.e.*, the "sides" are not the "chest, upper back, lower back, or stomach").

Finally, claim 27 recites a "releasable handle" comprising "a pair of straps that may be selectively connected and unconnected". Clearly, the D-rings 20 of Sidlinger are not "releasable" because they do not include "a pair of straps that may be selectively connected and unconnected". Nor does the Office Action even allege that they do. Instead, it states irrelevantly that "the attachment means comprises a plurality of straps configured so as to wrap at least partially around a child's torso or limbs (Sidlinger #12 and 13)". Since the plurality of straps 12 and 13 are not the alleged "handle" 20, the Office Action fails to state a *prima facie* rejection of claim 27 over Sidlinger. For this reason alone, claim 27 is patentable over Sidlinger.

Moreover, claim 27 was amended to recite a device in which the handle during use is "adjacent to the child's spine, sternum, stomach or chest". In contrast, Sidlinger teaches that the D-rings are "always" positioned "at the center of the sides of the wearer". For this additional reason, claim 27 is patentable over Sidlinger.

Claim 28 is patentable over the combination of Sidlinger and Lindy because Lindy fails to teach or suggest the claimed head restraint system, as discussed above.

In view of the foregoing, Applicant submits that the application as amended is in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 10th day of October 2005.

Respectfully submitted,

JOHN M. GUYNN
Registration No. 36,153
Attorney for Applicant
Customer No. 022913

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